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FISCAL IMPACT STATEMENT

LS 7650

BILL NUMBER: HB 1757

NOTE PREPARED: Feb 25, 2003

BILL AMENDED: Feb 25, 2003

SUBJECT: Regulation of Pharmacy Technicians.

FIRST AUTHOR: Rep. Klinker

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill establishes a certification program for pharmacy technicians and a permit program for pharmacy technicians in training. The bill also requires a person to be certified to practice as a pharmacy technician. The bill adds provisions concerning the designation of mail order and Internet based pharmacies by certain health plans.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) *Pharmacy Technicians* - The Board of Pharmacy would be responsible for issuing the pharmacy technician certificates and pharmacy technician in training permits and would be able to adopt rules regarding the issuance of the certificate and permit. The cost of a Board of Pharmacy meeting is estimated to be \$540. If an additional meeting is required to carry out this proposal, the Board's expenditures would increase approximately \$540. Administrative, printing and postage costs may also be associated with issuing a new license, however, the revenue generated from the fee will offset a portion of the additional expenditures.

Mail Order & Internet Pharmacy Matters - At this time this provision has no immediate fiscal impact to the state through the state's provision of health insurance benefits to state employees or through the Medicaid Program. At the beginning of 2000, six state employee health plans allowed insureds to obtain prescription drugs from mail order or internet pharmacies. However, none of the plans *required* purchases from mail order or internet vendors.

This provision could have a future fiscal impact on the state if certain circumstances occurred. This bill

essentially provides for an “any willing provider” condition within an existing network and would prohibit an insurer from requiring an insured individual to obtain prescription drugs from an internet or mail order pharmacy. As with any other “any willing provider” requirements, there could be an impact to a health plan if and to the extent that mail order and internet pharmacies can offer a lower cost alternative to health plans in exchange for volume assurances. If this provision precludes a health plan from obtaining the lowest possible price for pharmaceuticals (through a contractual arrangement with a mail order or internet pharmacy in exchange for the assurance of a higher volume of sales), the health plan may experience higher drug costs than would otherwise have been experienced. Consequently, the higher health plan costs could be factored into insurance premiums and enrollment fees. Ultimately this could affect health plan costs to the state and or to state employees. The extent of the effect on rates and associated health care costs is unknown.

The state may choose to absorb any additional costs of these provisions or to pass these costs on to employees in the form of higher deductibles, higher premiums, or by limiting other conditions covered

This issue would have no fiscal impact upon the Medicaid fee-for-service prescription drug program since Medicaid operates under "any willing provider" provisions. Participating pharmacies are required to be enrolled as Medicaid providers and subject to all the rules and operating procedures of the program. The pharmacy provider would also be responsible for collecting any copayment due from the client.

The Medicaid managed care organizations (MCO's) present a slightly different picture since they may have drug formularies and contracted pharmacy providers and require clients to make use of the contracted sources for prescription drugs. Currently none of the MCO's use a mail-order or internet pharmacy system. There is no copayment involved under the MCO option. Ultimately, the MCO's may incur higher costs if they cannot limit their clients to specific network pharmacy vendors or drugs (as in a formulary) in exchange for negotiated price breaks. The provisions of this bill may ultimately result in increased capitation rates to Medicaid above what they might otherwise have been.

Penalty Provision - This bill makes it a Class D felony to practice as a pharmacy technician or a pharmacy technician in training without the respective certificate or permit. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (Revised) *Pharmacy Technicians* - The amount of revenue generated is dependent on the actual fee set by the Board and the number pharmacy technicians who qualify and apply for the license. According to the Health Professions Bureau, there were approximately 1,360 active pharmacy permits as of October 2002. Based on the number of active pharmacy permits, every \$10 in fee revenue per license would generate approximately \$27,200 if it is assumed that at least two people from each pharmacy are required to obtain pharmacy technician certification. Revenue generated by the certificates would be deposited in the State General Fund. [Note, revenues may be higher or lower than this amount depending upon the license fee established by the Board.]

Penalty Provision - If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior or county

court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) *Mail Order & Internet Pharmacy Matters* - See *Explanation of State Expenditures*: It is unknown if local government employers would absorb any additional costs resulting from this bill or pass the costs on to employees in the form of higher deductibles, higher premiums, or by limiting other conditions covered. Cost sharing of health benefit premiums varies widely by locality.

Penalty Provision - If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provision* - If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: (Revised) *Pharmacy Technicians* - Health Professions Bureau, Department of Correction. *Mail Order & Internet Pharmacy Matters* - Potentially all state agencies depending upon administrative action.

Local Agencies Affected: (Revised) *Pharmacy Technicians* - Trial courts, local law enforcement agencies. *Mail Order & Internet Pharmacy Matters* - Potentially any local government or school corporation that purchases accident and sickness insurance for employees.

Information Sources: (Revised) *Pharmacy Technicians* - Indiana Sheriffs Association, Department of Correction. *Mail Order & Internet Pharmacy Matters* - Amy Kruzan, Legislative Liaison for the Family and Social Services Administration, (317)-232-1149, and Melanie Bella, Assistant Secretary, Office of Medicaid Policy and Planning.

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